

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

LEON WEINGRAD, individually and on behalf of all others similarly situated,	:	CIVIL ACTION
	:	
Plaintiff,	:	NO. 2:23-cv-05114-MAK
	:	
v.	:	
	:	
TOP HEALTHCARE OPTIONS INSURANCE AGENCY, INC.,	:	
	:	
Defendant.	:	
	/	

DEFENDANT'S MOTION TO DISMISS
PLAINTIFF'S FIRST AMENDED CLASS ACTION COMPLAINT

Defendant Top Healthcare Options Insurance Agency, Inc. (“THO”), pursuant to Fed. R. Civ. P. 12(b)(6), moves to dismiss plaintiff Leon Weingrad’s (“Plaintiff”) First Amended Class Action Complaint (ECF No. 12; “Complaint”), which asserts claims under the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA”) and the Pennsylvania Telemarketer Registration Act, 73 P.S. § 2243, *et seq.* (“PTRA”).

In support of this Motion, THO relies on its accompanying Memorandum of Law and Proposed Order. THO requests that this Court grant this Motion to Dismiss and dismiss Plaintiff’s TCPA and PTRA claims with prejudice.

CERTIFICATION OF MEET AND CONFER

On August 20, 2024, counsel for Defendant, Jeffrey B. Pertnoy, meaningfully conferred in good faith with counsel for Plaintiff, Andrew Perrong, regarding the arguments set forth in this Motion to Dismiss. A summary of the arguments in the Motion to Dismiss were relayed to Plaintiff’s counsel via e-mail, along with proposed solutions to avoid the need for filing the Motion to Dismiss and address the pleading deficiencies, as required by this Court’s procedures.

Thereafter, Defendant's counsel spoke to Plaintiff's counsel by telephone on August 21, 2024 regarding the arguments. The meet and confer resulted in an impasse, necessitating the filing of the Motion to Dismiss.

Dated: August 22, 2024

Respectfully submitted,

/s/ Jeffrey B. Pertnay

Jeffrey B. Pertnay, Esq. (Admitted *Pro Hac Vice*)

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Attorneys for Defendant Top Healthcare Options Insurance Agency, Inc.

CERTIFICATE OF SERVICE

I, Jeffrey B. Pertnay, certify that, on the date indicated below, I caused to be served a true and correct copy of Defendant's Motion to Dismiss, with all attendant documents, on all counsel of record in this action via the Court's CM/ECF system.

Dated: August 22, 2024

/s/ Jeffrey B. Pertnay

Jeffrey B. Pertnay, Esq. (Admitted *Pro Hac Vice*)